



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

# DRAFT

Date:	05/15/13	Bill No:	<a href="#">Assembly Bill 187</a>
Tax Program:	Ammunition Tax	Author:	Bonta and Dickinson
Sponsor:	Author	Sections:	CIV 1656.1 RTC 6012.4 RTC 33001 - 33051
Related Bills:	AB 760 (Dickinson)	Effective:	Upon enactment, but tax operative 7/1/14

## BILL SUMMARY

This bill imposes a 10% tax on retail sales of ammunition sold or purchased for use in California. The revenues would fund early mental health intervention and prevention programs and public safety programs in high crime municipalities.

### Summary of Amendments

Since the previous analysis, this bill was amended to (1) change the operative date to July 1, 2014, and (2) exclude the ammunition tax from the sales tax.

## ANALYSIS

### CURRENT LAW

Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law<sup>1</sup> imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer. The sales or use tax is computed on the retailer's gross receipts or sales price, respectively.

Effective January 1, 2013, California imposes a statewide 7.5% sales and use tax on taxable tangible personal property sales and purchases. The Transactions and Use Tax Law<sup>2</sup> and the Additional Local Taxes Law<sup>3</sup> authorize cities and counties to impose district taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%. The total combined sales and use tax rates in California jurisdictions range from 7.5% to 10%.

No Board of Equalization (BOE)-administered program imposes a tax or fee specifically on ammunition or firearms.

Civil Code Section 1656.1 includes sales tax reimbursement schedules for tax rates ranging from 4.75% to 7.50%. This section requires the BOE to prepare and make available identical rate schedules.

### PROPOSED LAW

This bill adds the Ammunitions Tax Law under Part 14.5 (commencing with Section 33001) to Division 2 of the Revenue and Taxation Code to impose a 10% tax upon retailers for the privilege of selling ammunition in this state. The bill imposes a

<sup>1</sup> Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code (RTC).

<sup>2</sup> Part 1.6 (commencing with Section 7251) of Division 2 of the RTC.

<sup>3</sup> Part 1.7 (commencing with Section 7280) of Division 2 of the RTC.

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complementary use tax at the same rate on the storage, use, or other consumption in this state of ammunition purchased from a retailer. Additionally, the bill amends the Civil Code to allow retailers to collect tax reimbursement of the ammunition tax.

The bill exempts from the tax ammunition purchases by any governmental law enforcement agency employing a peace officer for use by that peace officer in the normal course of employment.

Revenues collected from the tax will be deposited into the Ammunition Tax Fund which this bill creates. Upon appropriation by the Legislature, moneys in the Ammunition Fund will be allocated 33 1/3% to the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program and 66 2/3% to the Public Safety Emergency Prevention Fund.

**Definitions.** This bill defines the following terms:

- “Ammunition” includes, but is not limited to, any bullet, cartridge, or projectile capable of being fired from a firearm with a deadly consequence. It does not include blanks.
- “Firearm” means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.
- “Retailer engaged in business in this state” has the same meaning as defined in Section 6203.

**Administration.** The BOE would assess and collect the tax in accordance with the Fee Collection Procedures Law (FCPL).<sup>4</sup> The bill provides that the references in the FCPL to “fee” include the taxes imposed by this bill and “feepayer” includes the person liable for payment of the tax.

The FCPL generally provides for the BOE’s administration of fee programs. Among other things, the FCPL provides for collection, reporting, return, refund, and appeals procedures, as well as the BOE’s authority to adopt regulations related to the FCPL’s administration and enforcement.

**Tax Rate Schedules.** In addition, this bill amends Civil Code Section 1656.1 to eliminate the tax rate schedules and requires the BOE to provide tax rate schedules for the various rates in effect for amounts from \$0.01 to \$1.00.

As a tax levy, this bill goes into effect immediately. However, the tax is imposed on sales or purchases made on or after July 1, 2014.

#### LEGISLATIVE HISTORY

Ammunition tax bills have not been proposed for some time. The most recent are:

**SCA 12 (Perata), 2001-02.** Proposed a \$0.05 per bullet sales and use tax on ammunition sold or used in California. Was not heard in committee.

**SB 1124 (Watson), 1995-96.** Proposed an additional 5% sales and use tax on ammunition sold or used in California. Failed to pass the Senate Revenue and Taxation Committee.

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<sup>4</sup>Part 30 (commencing with Section 55001) of Division 2 of the RTC.

**COMMENTS**

1. **Sponsor and Purpose.** According to the author, the goal is to provide a critical new source of revenue to assist communities facing high levels of gun violence and will also fund important mental healthcare services for California's children.
2. **The May 15, 2013 amendments** (1) change the operative date from January to July 1, 2014, (2) exclude the ammunition tax from the definition of "gross receipts" and thus the sales tax, (3) limit the exemption to any governmental law enforcement agency employing peace officers for use by that peace officer in the normal course of employment, (4) add mental health funding to uses of revenues, and (5) add the co-author.
3. **Use tax.** Use tax is currently the largest noncompliance category tracked by the BOE. This additional tax will likely increase the amount of unreported taxes.
4. **Record and reporting complications.** Ammunition retailers already collect and remit sales and use tax on their retail ammunition sales in California. These retailers most likely sell other tangible personal property subject to sales and use tax. Collecting an additional tax from ammunition purchasers will require retailers to keep track of ammunition sales separately from other sales of tangible personal property.  
  
Additionally, smaller ammunition retailers may find collecting the additional tax burdensome. Larger retailers have the ability to program into their computer system the ammunition subject to the additional tax. Therefore, the tax will be automatically added to the purchase price once the product code or UPC is entered at the register. Cashiers at smaller supply stores, which are typically not computerized, must manually apply the additional tax, which could likely lead to collection and reporting errors.
5. **Tax rate schedules.** The tax rate schedules in the Civil Code are out of date. Tax reimbursement schedules are currently available on the BOE web site for rates ranging from 7.50% to 10%. The rate schedules are updated as necessary.
6. **Related legislation.** AB 760 (Dickinson) proposes a \$0.05 per bullet sales and use tax on ammunition sales.

**COST ESTIMATE**

A detailed cost estimate is pending. However, the BOE would incur substantial costs to (1) identify and notify taxpayers, (2) create a new tax return, (3) program computer systems, (4) develop regulations, (5) revise manuals and publications, (6) train staff, and (7) answer numerous inquiries from the public.

**REVENUE ESTIMATE****BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

According to the *National Shooting Sports Foundation*, 1.2 billion rounds of ammunition are sold in California annually. This includes pistol, long gun, and shot gun ammunition.

According to data from the *U.S. Bureau of Labor Statistics*, California law enforcement and allied personnel number about 132,900. *U.S. Census Bureau* data indicate an estimated 1.6 million hunters in California. Based on these data, we estimate that approximately 91.7% of all ammunition purchases will be subject to this tax ( $1 - (132,900 \div 1.6 \text{ million}) = 91.7\%$ ).

Of the 1.2 billion rounds of ammunition sold at an average price of \$0.84 per round, 91.7% of those sales will be to consumers other than law enforcement and subject to the proposed tax. Gross receipts are estimated at \$924 million (1.2 billion x 91.7% x \$0.84 = \$924 million).

#### REVENUE SUMMARY

The revenue in FY 2013-14 will amount to approximately \$46.2 million (10% x \$924 million / 2). The annual revenue amounts to an estimated \$92.4 million.

FY 2013-14 (6 months): \$46.2 million

FY 2014-15: \$92.4 million

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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